IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35309

STATE OF IDAHO,	)	**2009 Unpublished Opinion No. 594**
	)	
Plaintiff-Respondent,	)	**Filed: August 28, 2009**
	)	
v.	)	**Stephen W. Kenyon, Clerk**
	)	
TROY WAYNE WOLF,	)	**THIS IS AN UNPUBLISHED**
	)	**OPINION AND SHALL NOT**
Defendant-Appellant.	)	**BE CITED AS AUTHORITY**
	)	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Gooding County. Hon. R. Barry Wood, District Judge.

Judgment of conviction and sentences, affirmed.

E. W. "Skip" Carter, Attorney at Law, PA, Pocatello, for appellant. E. W. "Skip" Carter, argued.

Hon. Lawrence G. Wasden, Attorney General; Rebekah A. Cudé, Deputy Attorney General, Boise, for respondent. Rebekah A. Cudé, argued.

GRATTON, Judge

Troy Wayne Wolf appeals from the judgment of conviction and sentences entered upon his plea of guilty to three counts of aggravated assault, Idaho Code §§ 18-901, 18-905, 18-906, count three of which was enhanced for the use of a firearm, I.C. § 19-2520. We affirm.

I.
FACTS AND PROCEDURAL BACKGROUND

On November 30, 2006, law enforcement attempted to serve Wolf with an arrest warrant on charges of battery, false imprisonment, and telephone harassment. Wolf refused entry, which began a four-hour standoff with the police. After unsuccessful negotiations with Wolf, a SWAT team of five officers entered the house. Wolf fired at least three shots with a semi-automatic handgun, but was subdued with a taser. Wolf underwent several competency evaluations, and was ultimately found competent to stand trial. Pursuant to a plea agreement, Wolf pled guilty to three counts of aggravated assault and an enhancement for use of a firearm, and the State agreed

to dismiss two counts of aggravated assault. The district court imposed unified sentences of five years, with five years determinate, on the first two counts of aggravated assault. On the third count of aggravated assault, which carried the sentencing enhancement, the district court imposed a unified sentence of twenty years, with ten years determinate. Each sentence was ordered to be served consecutively resulting in a sentence of thirty years, with twenty years determinate. Wolf filed a "motion for new trial," which was denied. Wolf subsequently filed an Idaho Criminal Rule 35 motion as well as a motion to reconsider the motion for new trial, both of which were denied. This appeal followed.

II.

ANALYSIS

Wolf claims that the district court erred by failing to *sua sponte* order an updated psychological evaluation for sentencing and by denying his motion to withdraw his guilty pleas. He further asserts that the district court abused its discretion by imposing excessive sentences and by denying his Rule 35 motion.

A. Psychological Evaluation for Sentencing

Wolf contends that the district court should have *sua sponte* ordered an updated psychological evaluation as an aid for sentencing. The determination whether to obtain a psychological evaluation lies within the sentencing court's discretion. I.C. § 19-2522(1); I.C.R. 32(d); *State v. Jones*, 132 Idaho 439, 442, 974 P.2d 85, 88 (Ct. App. 1999). The legal standards governing the court's decision whether to order a psychological evaluation and report are contained in I.C. § 19-2522. Pursuant to I.C. § 19-2522(1), if there is reason to believe that the mental condition of the defendant will be a significant factor at sentencing and for good cause shown, the sentencing court must appoint a psychiatrist or licensed psychologist to examine and report upon the defendant's mental condition. However, the court nonetheless may deny a request for a new evaluation if the information contained in existing reports satisfies the requirements of I.C. § 19-2522(3). *State v. McFarland*, 125 Idaho 876, 879, 876 P.2d 158, 161 (Ct. App. 1994). Accordingly, we will uphold the district court's failure to order a psychological evaluation if the record supports a finding that there was no reason to believe a defendant's mental condition would be a significant factor at sentencing or if the information already before the court adequately meets the requirements of I.C. § 19-2522(3). *Id.*

Where a defendant fails to request a psychological evaluation or object to the PSI on the ground that an evaluation has not been performed, the defendant must demonstrate that by failing to order a psychological evaluation the sentencing court manifestly disregarded the provisions of I.C.R. 32. *Jones*, 132 Idaho at 442, 974 P.2d at 88. In this case, Wolf did not request an evaluation or object to its absence. At the change of plea hearing, Wolf's counsel indicated that a substance abuse evaluation was unnecessary and, as to the need for additional psychological evaluation, Wolf's counsel responded, "[A]nd we have had that, extensively." Thus, we proceed under the standard of manifest disregard.

The first inquiry is whether there was reason to believe that Wolf's mental condition would be a significant factor at sentencing. The parties do not dispute this issue and, as is demonstrated below by the recitation of post-arrest evaluation and treatment of Wolf, sufficient reason existed to believe that Wolf's mental condition would be a significant factor at sentencing.

At Wolf's initial appearance, he was appointed a public defender, who moved for a psychiatric examination pursuant to I.C. § 18-211, to which the State stipulated. The evaluation, performed by Dr. Richard Smith on December 17, 2006, concluded that while Wolf had an understanding of the proceedings against him, his ability to assist in his own defense was impaired due to paranoid reasoning. Dr. Smith recommended that Wolf receive a "short-term psychiatric hospitalization for stabilization on medications" such that the competency question could be revisited. Based on the evaluation, the magistrate committed Wolf to the Department of Health and Welfare for an indeterminate period of time not to exceed ninety days.

A second evaluation was conducted by Dr. Eric Heidenreich on January 4, 2007. Wolf self-reported experiencing passive suicidal ideation bordering on active suicidal ideation and also problems of paranoia. Dr. Heidenreich observed that Wolf "fairly consistently and accurately recalled events that resulted in his incarceration," that his "thought processes were linear and coherent," and that he appeared capable of participating in his own defense. Dr. Heidenreich recommended that Wolf be treated for his anxiety, paranoia, and mood symptoms, noting that without the appropriate treatment Wolf's suicidal ideation would eventually worsen. Thereafter, a review hearing was held on February 15, 2007, at which Dr. Heidenreich testified. The magistrate determined Wolf to be competent and set the case for a preliminary hearing. Wolf's counsel conditionally waived the preliminary hearing on his asserted belief that Wolf was

developmentally disabled and required further examination. Wolf was bound over to the district court, and he entered a plea of not guilty at his arraignment.

The Presentence Investigation Report (PSI) states that while in the county jail, Wolf "had fooled jail staff into thinking that he had been taking medications when in fact he was not." Wolf attempted suicide. Two designated examiners noted that Wolf had been experiencing auditory and visual hallucinations and continued to have suicidal ideations. Both examiners concluded that Wolf met the criteria for schizophrenia and depression. Upon the State's motion, Wolf was civilly committed to the Department of Health and Welfare and was initially placed at the Eastern Idaho Regional Behavioral Health Center (BHC) on April 25, 2007. During his stay at BHC, Wolf underwent more evaluations and was placed on several medications. Intelligence evaluations were conducted and it was determined that he was in the below average range. Doctors concluded that Wolf's impairments may have been due to head injuries that he had received at ages eleven and thirteen. On May 21, 2007, Wolf was transferred to State Hospital South (SHS). A psychiatric evaluation was conducted upon admission to SHS, which stated:

> [Wolf] reports ongoing hallucinations telling him to kill himself. He minimizes his legal charges and portrays himself as a victim today. He has a history of substance abuse which he minimizes and a history of head injury as an adolescent. He does exhibit deceitfulness, lack of remorse, impulsivity, assault and reckless disregard for the safety of others.

While Wolf was being treated at SHS, Wolf's counsel again moved for a psychiatric examination pursuant to I.C. § 18-211. The court ordered that an examination be performed by Dr. Linda Hatzenbuehler.

On August 24, 2007, Dr. Hatzenbuehler conducted a competency evaluation. In her very detailed report, Dr. Hatzenbuehler determined that Wolf had the capacity to comprehend and appreciate the charges against him; to disclose pertinent facts and events leading to the charges and his arrest; to comprehend and appreciate the nature of potential penalties; to appreciate and make reasoned choices regarding plea bargaining, legal strategy, and treatment; to appreciate the adversarial nature of proceedings; to manifest appropriate courtroom behavior; to testify relevantly; and to understand the necessity of medication to maintain competency. Dr. Hatzenbuehler noted that should Wolf's mental status deteriorate such that he would be unwilling to work with his attorney, he should be re-evaluated for his competency to stand trial. Dr. Hatzenbuehler also noted that it was important for Wolf to remain medication compliant

during his adjudication to assure that he remained competent to assist in his defense. Dr. Hatzenbuehler's ultimate opinion was that while Wolf was capable of assisting in his defense and competent to stand trial, his legal proceedings should accommodate his discharge from the hospital as he was not ready to be discharged at that time. Dr. Hatzenbuehler also noted, "If Mr. Wolf becomes overwhelmed and distraught, to the extent that he cannot attend to his case, or refuses to work with his attorney, I would advise the court to recommend an update on this evaluation."

Wolf was discharged from SHS on November 8, 2007. In the discharge treatment and medical summary it was noted that Wolf "did not present with behavior problems" and that he "generally was cooperative with taking medications."

The State contends that based upon the wealth of mental health information available to the district court, another evaluation was unnecessary and, therefore, the district court did not manifestly disregard the requirements of I.C.R. 32 by not ordering another evaluation specifically for sentencing. Existing reports, upon which the sentencing court may rely, are those which adequately meet the requirements of I.C. § 19-2522(3). *State v. McFarland*, 125 Idaho 876, 879, 867 P.2d 158, 161 (Ct. App. 1994). Pursuant to I.C. § 19-2522(3) a psychological evaluation shall include: (a) a description of the nature of the examination; (b) a diagnosis, evaluation or prognosis of the mental condition of the defendant; (c) an analysis of the degree of the defendant's illness or defect and level of functional impairment; (d) a consideration of whether treatment is available for the defendant's mental condition; (e) an analysis of the relative risks and benefits of treatment or nontreatment; (f) a consideration of the risk of danger which the defendant may create for the public if at large.

Wolf did not request additional evaluation at the sentencing hearing. In regard to the PSI, to which the SHS evaluations were attached, and the addendum PSI, which included the BHC evaluations, the court engaged in the following discussion:

> THE COURT: Have you and your client had sufficient access to each of these [PSI and APSI] to meet their contents?
> [DEFENSE]: Yes.
> THE COURT: Does any party claim a need for additional investigation?
> [DEFENSE]: No.
> [PROSECUTOR]: State does not.
> THE COURT: Or reporting?
> [DEFENSE]: No, Your Honor.
> THE COURT: Need any more time?

[DEFENSE]: No.
THE COURT: Is there any claim or assertion that the report and addendum as prepared do not comply with the legal requirements of Rule 32?
[DEFENSE]: No, Your Honor.
. . . .
THE COURT: Mr. Wolf, have you read through these?
MR. WOLF: Yes.
THE COURT: Do you agree that they are factually correct?
MR. WOLF: Yes.
THE COURT: And that I can rely on the information contained in here in formulating a sentence?
MR. WOLF: Yes.

Wolf's counsel indicated that he had no evidence to present even though he had indicated, at the change of plea hearing, an intent to call mental health professionals at sentencing. The court noted that Wolf had filed a notice of intent to produce mitigation and questioned Wolf's counsel regarding mitigation witnesses. Wolf's counsel responded that he had been unable to secure any witnesses, but stated:

> I believe that the materials that I sent to the court and that are attached to the PSI and that have filtered down throughout this case over the last year and a third of evaluations, both the Blackfoot facility and the other facilities, are before the court. I think that information is available to the court, and I think the court's seen that.

Then, in an effort to clarify the issue, the court engaged Wolf's counsel in the following discussion:

THE COURT: Well, do you believe that the court possesses sufficient information in the filings to make that determination?
[DEFENSE]: I do.
THE COURT: And to be crystal clear: I have not been called upon to make any ruling in this respect. Do you agree with that?
[DEFENSE]: Yes.
THE COURT: And you have not asked me to enforce any subpoena?
[DEFENSE]: No.
THE COURT: And you have not asked me to continue anything?
. . . .
[DEFENSE]: No.

Wolf now contends that when this came to light at sentencing, the court should have *sua sponte* continued the hearing and ordered a psychological examination. However, the witnesses which Wolf's counsel had hoped to have testify at sentencing were not intended to provide additional

mental health evaluations, but to "explain" Wolf's prior psychological evaluations and problems, and also to support an argument for possible community supervision.

Wolf does not claim that the evaluations prepared prior to sentencing did not adequately meet the content requirements of I.C. § 19-2522(3). The district court had before it for sentencing purposes three competency evaluations, two designated examiner evaluations, evaluations performed at BHC, and evaluations performed at SHS, which adequately addressed the information set out in I.C. § 19-2522(3). However, Wolf contends that because the last competency evaluation was conducted almost eight months prior to sentencing, the district court manifestly disregarded I.C.R. 32 by not ordering an updated psychological evaluation. Nothing in the record, other than the passage of time, supports any need for an updated evaluation. As recommended by Dr. Hatzenbuehler, a status conference was held on November 20, 2007, shortly after Wolf's discharge from SHS wherein the district court indicated that a trial date would be set if Wolf was fit for trial. Thereafter the court set the matter for trial without noted objection. In the final competency evaluation performed by Dr. Hatzenbuehler, the court was advised that if Wolf became "overwhelmed and distraught, to the extent that he [could not] attend to his case, or refuse[d] to work with his attorney," an updated evaluation was recommended. There is nothing in the record to suggest that Wolf was overwhelmed and distraught at any of the proceedings following Dr. Hatzenbuehler's evaluation. The record does not demonstrate any downturn in Wolf's mental condition between release from SHS and his plea and sentencing. Our review of the record reveals that Wolf responded appropriately to the court's questioning during the change of plea hearing and then at sentencing. We conclude that the amount and content of information before the district court was sufficient to make a sentencing determination, and that information adequately met the requirements of I.C. § 19-2522(3). Therefore, the district court did not manifestly disregard I.C.R. 32 in failing to sua sponte order an additional psychological evaluation for sentencing purposes.

B. Motion to Withdraw Guilty Pleas

Wolf's post-sentencing motion was originally titled "motion for new trial." However, Wolf's counsel later acknowledged, and the language of the motion itself demonstrates, that the essence of the motion was a request to withdraw his guilty pleas. Wolf's counsel did not appear at the hearing on the motion, and the district court thus denied the motion. Wolf filed a motion to reconsider stating that he had not been provided notice of the prior hearing and asserting that

additional mental and psychological tests and evaluations were necessary relative to his capacity to voluntarily enter an informed and knowing guilty plea, competency to proceed to trial, and capacity to form intent to commit the accused crimes. At the subsequent hearing, the district court treated the motion as a request to withdraw Wolf's guilty plea. Wolf provided no further evidence or argument. The district court denied the motion.

Wolf contends that the district court abused its discretion in denying his motion to withdraw his guilty plea. Whether to grant a motion to withdraw a guilty plea lies in the discretion of the district court and such discretion should be liberally applied. *State v. Freeman*, 110 Idaho 117, 121, 714 P.2d 86, 90 (Ct. App. 1986). Appellate review of the denial of a motion to withdraw a plea is limited to determining whether the district court exercised sound judicial discretion as distinguished from arbitrary action. *Id.* Also of importance is whether the motion to withdraw a plea is made before or after sentence is imposed. Idaho Criminal Rule 33(c) provides that a plea may be withdrawn after sentencing only to correct manifest injustice. The stricter standard after sentencing is justified to ensure that the accused is not encouraged to plead guilty to test the weight of potential punishment and withdraw the plea if the sentence were unexpectedly severe. *Freeman*, 110 Idaho at 121, 714 P.2d at 90. Accordingly, in cases involving a motion to withdraw a plea after sentencing, appellate review is limited to reviewing the record and determining whether the trial court abused its sound discretion in determining that no manifest injustice would occur if the defendant was prohibited from withdrawing his or her plea. *State v. Lavy*, 121 Idaho 842, 844, 828 P.2d 871, 873 (1992). It is the defendant's burden to establish manifest injustice. *State v. Wilson*, 126 Idaho 926, 930, 894 P.2d 159, 163 (Ct. App. 1995). Wolf's motion to withdraw his guilty plea was filed after sentencing and, therefore, we proceed under the manifest injustice standard.

Manifest injustice will be found if the plea was not taken in compliance with constitutional standards, which require that a guilty plea be entered voluntarily, knowingly, and intelligently. *State v. Huffman*, 137 Idaho 886, 887, 55 P.3d 879, 880 (Ct. App. 2002). Compliance with these standards turns upon whether: (1) the plea was voluntary in the sense that the defendant understood the nature of the charges and was not coerced; (2) the defendant knowingly and intelligently waived his rights to a jury trial, to confront adverse witnesses, and to avoid self-incrimination; and (3) the defendant understood the consequences of pleading guilty. *Id*. The validity of a plea is determined by considering all the relevant circumstances

surrounding the plea as contained in the record. *State v. Hawkins*, 117 Idaho 285, 288, 787 P.2d 271, 274 (1990).

At the hearing on the motion to withdraw the guilty plea, the district court noted the "manifest injustice" standard. The court referenced the many psychological evaluations that Wolf had undergone in order to determine his competency. Thereafter, the court incorporated the change of plea colloquy that took place on the record and denied the motion.

A review of the change of plea hearing reveals that the court notified Wolf that it would explain anything that Wolf did not understand and that Wolf would be given the opportunity to privately discuss any matters with his attorney. The court also inquired as to whether Wolf was taking any medications. The court then read the charging language, inquiring as to whether Wolf understood the charges; informed Wolf of the maximum penalties, again asking whether Wolf understood; reviewed with Wolf his rights, including the fact that by pleading guilty Wolf would waive those rights; reviewed with Wolf the plea agreement, asking whether he understood the agreement and whether he had been pressured, threatened, or forced to accept the offer; and engaged Wolf in the following discussion prior to Wolf changing his plea to guilty:

> THE COURT: Is this intended plea of your own free will and volition?
> WOLF: Yes.
> THE COURT: Has anyone told you what you have to say here today?
> WOLF: No.
> THE COURT: Has anyone prevented you from saying anything that you want to say?
> WOLF: No.
> THE COURT: Again, are these intended pleas of your own free will and volition?
> WOLF: Yes.

Wolf has neither cited to nor addressed the "manifest injustice" standard. He has provided no evidence in the record as to why the prior psychological evaluations were insufficient or what additional evaluations might reveal. Rather, he argues on appeal that his trial counsel was ineffective for "rush[ing] [him] through the change of plea and sentencing process." In addition to this claim being disproved by the record, we do not ordinarily address claims of ineffective assistance of counsel on direct appeal because the record on direct appeal is rarely adequate for review of such claims. *See State v. Hayes*, 138 Idaho 761, 766, 69 P.3d 181, 186 (Ct. App. 2003). Upon review of the record, we are satisfied that the district court did not abuse its discretion in determining that no manifest injustice would occur if Wolf were

prohibited from withdrawing his plea. Therefore, we affirm the district court's denial of Wolf's motion to withdraw his guilty plea.

C. Excessive Sentence

Wolf contends that his sentences are excessive in light of his mental condition. An appellate review of a sentence is based on an abuse of discretion standard. *State v. Burdett*, 134 Idaho 271, 276, 1 P.3d 299, 304 (Ct. App. 2000). Where a sentence is not illegal, the appellant has the burden to show that it is unreasonable, and thus a clear abuse of discretion. *State v. Brown*, 121 Idaho 385, 393, 825 P.2d 482, 490 (1992). A sentence may represent such an abuse of discretion if it is shown to be unreasonable upon the facts of the case. *State v. Nice*, 103 Idaho 89, 90, 645 P.2d 323, 324 (1982). A sentence of confinement is reasonable if it appears at the time of sentencing that confinement is necessary "to accomplish the primary objective of protecting society and to achieve any or all of the related goals of deterrence, rehabilitation or retribution applicable to a given case." *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). Where an appellant contends that the sentencing court imposed an excessively harsh sentence, we conduct an independent review of the record, having regard for the nature of the offense, the character of the offender, and the protection of the public interest. *State v. Reinke*, 103 Idaho 771, 772, 653 P.2d 1183, 1184 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007).

Wolf contends that the offenses to which he pled guilty were attributable to a psychotic episode triggered by his mental condition. Addressing Wolf's actions with regard to the police officers, the court determined that Wolf understood what he was doing, and stated:

> But the point being is you're going through this cognitive process step-by-step, linear thinking. The officer shows up, you're not going to open the door. You turn off the light. At some point you secure this gun. At some point you form the intent that you're going to require these people to shoot you.
>
> Now, is that really rational? That could be one argument that obviously is subject to some debate, but the fact is you knew what you were doing. You tried to provoke and cause a situation here, which is different than -- or somewhat different, at least, and materially so, materially different than other cases of true mental illness that we see where someone is so actively psychotic that they're just clueless.
>
> That, in my view, isn't what was going on here. You were deliberately trying to provoke these people into a violent and hostile confrontation. The evidence in that respect is undeniable.

> But the point being if the police can't go to somebody's residence and serve lawful process, we're in real trouble as a society; and that's one reason why this case cries out for protection of society, not to mention the absolute shooting of a firearm.

The court further found that Wolf was aware of his mental problems, had the capacity to understand them, and made the deliberate decision to refuse treatment. The court found that Wolf had a history of violence, a history of poly-substance abuse, and was strongly anti-authority. The court determined that undue risk existed that Wolf would commit another crime, I.C. § 19-2521(1)(a), based upon his poly-substance abuse, attitude, mental condition, and affinity for firearms. The court acknowledged that Wolf was in need of correctional treatment that could most effectively be provided by commitment to an institution, I.C. § 19-2521(1)(b).

The district court considered Wolf's mental illness but determined that it was outweighed by the primary goal of sentencing, protection of society:

> And I am sympathetic to the mental condition issue; but it makes little difference to these police officers or their families or their children had you hit one of them, shot one of them or killed them, that it was done by a person who has a mental illness.
>
> When it comes to the protection of society, the issue is protection of society, not -- not anything else than that. And it is an aggravating factor, clearly, to me that you know you have a problem, but you intentionally refuse to deal with it, as your mother writes. That is a real problem, because that sends a message loud and clear that you have no intention to rehabilitate.

The record supports the findings of the district court. The district court addressed each of the goals of sentencing and then applied the statutory sentencing factors of I.C. § 19-2521 to the specific facts of the case. Wolf also argues that his aggregate sentence was excessive due to the district court's decision to have Wolf's sentences run consecutively rather than concurrently and asks this Court to order that the sentences be served concurrently. We decline to do so. We cannot say that the district court abused its sentencing discretion as to the individual sentences or the decision that the sentences be served consecutively.

D. Rule 35 Motion

Wolf also contends that the district court abused its discretion by failing to grant his I.C.R. 35 motion. A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In

presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). In conducting our review of the grant or denial of a Rule 35 motion, we consider the entire record and apply the same criteria used for determining the reasonableness of the original sentence. *State v. Forde*, 113 Idaho 21, 22, 740 P.2d 63, 64 (Ct. App. 1987); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984). Given the above discussion and based upon our review of the record, we conclude that the district court did not abuse its discretion in denying Wolf's Rule 35 motion.

E. Competency Restoration Unit

Wolf also contends that the district court should have ordered that Wolf be placed in the Competency Restoration Unit program at the Idaho State Penitentiary. However, he provides no authority to support this contention. A party waives an issue on appeal if either authority or argument is lacking. *State v. Zichko*, 129 Idaho 259, 263, 923 P.2d 966, 970 (1996). Therefore, we decline to address it on appeal.

III.
CONCLUSION

The court did not manifestly disregard I.C.R. 32 by failing to order a psychological evaluation as an aid for sentencing as the evaluations before the court adequately met the requirements of I.C. § 19-2522(3). The district court did not abuse its discretion in denying Wolf's motion to withdraw his guilty pleas. The district court did not abuse its discretion by imposing sentence, or in denying Wolf's I.C.R. 35 motion. Wolf has provided no authority for his argument that the district court could or should have ordered that Wolf be placed in the Competency Restoration Unit program at the Idaho State Penitentiary. Accordingly, Wolf's judgment of conviction and sentences are affirmed.

Judge PERRY and Judge GUTIERREZ, **CONCUR.**